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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|--|-------------|----------------------|---------------------------|------------------------|
| 10/650,176   | 08/28/2003  | Jeffrey C. Fuller    | 30835/302629              | 5959                   |
| 45373 7590 12/28/2007<br>MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)<br>233 SOUTH WACKER DRIVE<br>6300 SEARS TOWER<br>CHICAGO, IL 60606 |             |                      | EXAMINER<br>SEYE, ABDOU K |                        |
|  |             |                      | ART UNIT<br>2194          | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>12/28/2007   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/650,176

Applicant(s)

FULLER, JEFFREY C.

Examiner

Abdou Karim Seye

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-17 and 19-25 is/are rejected.
- 7) ☒ Claim(s) 9, 18 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
ADAM THOMSON  
JURY PATENT EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on September 21, 2007 has been received and entered. The amendment amended Claims 1, 7, 9-10, 16, 18-19, 24 and 26. The currently pending claims considered below are Claims 1-26.

### ***Allowable Subject Matter***

2. Claims 9, 18 and 26 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 19 is non statutory. The claimed system, comprising an application thread and a system thread is considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither

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computer components nor statutory processes, as they are not "acts" being performed.

Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Claims 20-26 are also rejected for failing to remedy the deficiencies of the above rejected non statutory claim 19.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 4-13, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by **Kimmel et al. (US 6105053)**.

Claim 1, Kimmel teaches a system, method and computer-readable medium having computer-executable instructions for performing steps for processing Input/Output ("I/O") requests, comprising:

receiving an I/O request from an application thread (FIG. 1 A; JP's accessing memory);

performing an I/O operation in response to the I/O request ( col. 6, lines 15-21); and upon completion of the I/O operation, determining whether to boost a priority of the application thread according to criteria based on future I/O operations to be performed for the application thread or whether a period of time since a last time the priority of the application thread was boosted has reached a threshold length ( FIG. 1B; FIG. 4B, col. 14, lines 14-45).

As to Claim 2, Kimmel teaches, if the step of determining determines not to boost the priority of the application thread, performing a further I/O operation for the application thread, and determining again whether to boost the priority of the application thread (col. 14, lines 29-45).

As to claim 3, Kimmel teaches, wherein the application thread posts a data buffer in connection with the I/O request, and the step of performing the I/O operation includes copying data into the I/O buffer (col. 4, lines 39-65).

As to claim 4, Kimmel teaches, the step of boosting the priority of the application thread when the step of determining determines that the priority of the application is to be boosted.

As to claim 5, Kimmel teaches, wherein the step of boosting boosts the priority of the application thread by a pre-selected level.

As to claim 6, Kimmel teaches, wherein the pre-selected level is fixed.

As to claim 7, Kimmel teaches, wherein the criteria for determining whether to boost the priority of the application thread includes an analysis of the number of whether there are more I/O operations to be performed in the future for the application thread ( col. 6, lines 10-25; tracking active thread with more additional threads supporting task to be performed).

As to claim 8, Kimmel teaches, wherein the criteria for determining whether to boost the priority of the application thread include whether a number of I/O operations performed in a current thread context for the application thread has reached a threshold number.

As to claims 11-17 and 20-25; they are rejected for the same reasons as the claims above.

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Foote (7028298) discloses a apparatus and method for managing resource usage.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

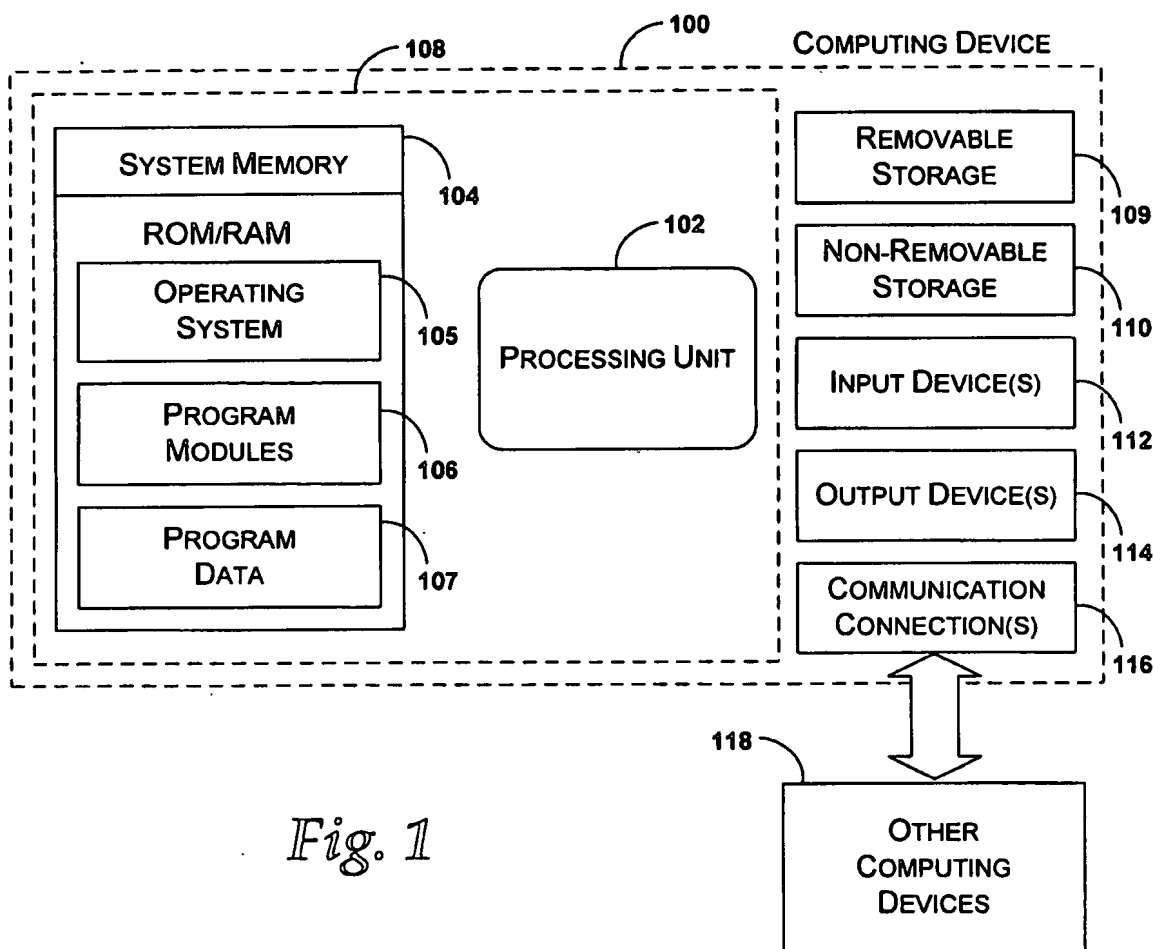
AKS  
December 10, 2007

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

Title: **SYSTEM AND METHOD FOR A TRANSPORT INDEPENDENT GAMING API FOR MOBILE DEVICES**

Inventors: Chew et al.  
Docket No: M&G 50037.101US01

1/6



*Fig. 1*